

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LUIS CARLOS GUTIERREZ HERNANDEZ,
as Administrator, et al.,

Plaintiffs,

v.

ORDER

DARREN TUCK, et al.,

No. 22-CV-05242 (PMH)

Defendants.

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PHILIP M. HALPERN, United States District Judge:

Defendants removed this action from New York State Supreme Court, County of Westchester, on June 22, 2022. (Doc. 1). The Court scheduled an initial conference for August 10, 2022 by notice dated June 30, 2022. (Doc. 7). On August 3, 2022, defendants filed a letter “on behalf of plaintiff’s counsel” to request an adjournment of that conference on the grounds that the personal injury practice at plaintiff’s counsel’s firm is dissolving” (Doc. 8). The Court granted the request and adjourned the conference to September 19, 2022. (Doc. 9). On September 12, 2022, defendants filed a letter again “on behalf of plaintiff’s counsel” seeking a second adjournment for the same reasons, and advised that another lawyer was reviewing the file to determine whether to represent plaintiffs in this matter. (Doc. 10). The Court granted the request and adjourned the conference a second time to October 26, 2022. (Doc. 11). The Court, with each adjournment, directed the parties to file a proposed civil case discovery plan and scheduling order at least one week prior to the conference. At no time since the filing of the Notice of Removal has any lawyer entered an appearance on behalf of plaintiffs in this action; nor have plaintiffs filed a proposed civil case discovery plan and scheduling order or communicated in any way with the Court.

Defendants appeared for the initial conference today; plaintiffs did not appear. The conference was therefore cancelled in light of plaintiffs’ failure to appear.

Plaintiffs are directed to obtain new counsel within 30 days. “[T]he general rule in federal court forbids representative parties, such as guardians or executors, from appearing *pro se*.” *Taylor v. Henderson*, No. 99-CV-04941, 2002 WL 14423, at *3 (S.D.N.Y. Jan. 4, 2002). If plaintiffs can establish that an exception to this general rule exists as regards plaintiff in his capacity as administrator and he seeks to represent himself *pro se*, he must submit his mailing address, telephone number, and email address to the Court within 30 days. If plaintiffs fail to have new counsel file a notice of appearance within 30 days of the date of this order or otherwise fail to comply with this order, the Court may dismiss this action for want of prosecution under Federal Rule of Civil Procedure 41(b).

Defendants are directed to: (1) serve a copy of this order on plaintiffs’ counsel; (2) mail a copy of this order to plaintiffs at their last known address; and (3) file proof of such service and mailing.

SO-ORDERED:

Dated: White Plains, New York
October 26, 2022

A handwritten signature in black ink, appearing to read 'P. Halpern', is written above a horizontal line.

Philip M. Halpern
United States District Judge